

Remarks

This amendment is responsive to the official action mailed August 23, 2005. The number of claims remains within the number for which filing fees were previously paid. No new matter is presented.

Objection was made to claims 4-13 under 37 C.F.R. §1.75(c) as being in improper multiple dependent form, namely as having multiple dependent claims depending from other multiple dependent claims. For this reason, claims 4-13 were not examined on the merits. Additionally, claims 1, 2 and 3 were rejected as containing unclear claim language.

Reconsideration is requested. The subject application was filed with a preliminary amendment that placed the claims in proper form, in compliance with 37 C.F.R. §1.75(c). The preliminary amendment also amended the claims for definiteness. Examination appears to have been based on the application as published (in September 2004), wherein the preliminary amendment apparently was not entered although the preliminary amendment had been filed on December 12, 2003.

Applicant would proffer evidence of filing the preliminary amendment, but this seems unnecessary: The preliminary amendment can be found in the PTO image file wrapper system, which confirms filing together with the application, on December 12, 2003.

Whereas the claims were amended well prior to the official action and were apparently overlooked, and there were actually 18 claims pending as of the filing date of the application rather than 14, applicant requests that the claims be examined anew. Applicant also requests, that should any further official action not be an allowance, that such action be non-final so as to permit applicant a right to respond in accordance with 37 C.F.R. §§1.104, 1.111 and 1.112.

As stated, the objection for improper multiple dependencies is unwarranted in view of the preliminary amendment. The examined claims (1-3) were rejected as having unclear language. Applicant requests reconsideration in view of the preliminary amendment. Applicant also has amended the claims in this response, to obviate the objections to use of the term "its," considered unclear with respect to the element to which the "its" refers. The occurrences of "its" have been replaced with the corresponding element. No new matter is presented.

Regarding the rejection of claim 3 for lack of antecedent basis for "the wall-mounting rod," antecedent basis is provided by the term "a wall-mounting rod," which appears at claim 1, line 3, and also appeared in original claim 1.

The claims as amended particularly and distinctly define the subject matter of the invention, and are definite under 35 U.S.C. §112, second paragraph. Reconsideration and withdrawal of the rejection are requested.

Claims 1-3 were rejected under 35 U.S.C. §102(b) over DE 81 30 860. Reconsideration is requested. The DE 81 30 860 reference fails to disclose or suggest applicant's invention claimed as a whole.

According to applicant's invention, a wall mounting rod arrangement comprises a wall-mounting rod that has a continuous, guiding profile for guiding a slide, extending over a full length of the wall-mounting rod between ends of the wall mounting rod. A bracket is used for fastening the wall-mounting rod to a surface, and the arrangement of the rod and bracket are configured to leave clear that part of the guiding profile used for guiding the slide. The wall mounting rod is continuous between its opposite ends.

Applicant's wall mounting rod can be extruded or similarly formed, and cut to the desired length, etc. However, importantly, applicant's mounting brackets, which are specifically structured so as not to obstruct the slot in the wall mounting rod, also permit lengths of the wall mounting rod to be joined in a manner that continues the guiding profile. Applicant accomplishes this by use of a bracket that does not

obstruct the guiding profile. This technique is not disclosed in the DE 81 30 860 reference. Applicant's structure is particularly and distinctly claimed. Applicant's structure is not found as a whole in the prior art of record. Therefore, the rejection under 35 U.S.C. §102(b) is not supported on the record.

In DE 81 30 860, the end brackets 14, 15 are structured to obstruct the ends of the slot 6 in which the slider 7 or 8 can move. Attached is an annotated exhibit containing an excerpt of portions of Figs. 2 and 3 of DE 81 30 860, and an English language abstract which has been found in a European patent (EP 0 076 906), the EPO patent claiming priority of the DE reference.

In the DE structure, an end bracket 13 or 14 is provided for the top and bottom ends of an elongated profile 1 that can be mounted to a wall. Brackets 13 and 14 are mirror images of one another and contain tabs that extend outwardly into the slot 6 and there obstruct the path of any slider that may be brought to the end of slot 6.

The DE bracket may be apt for mounting at the end of a wall rod with a slot, but the DE bracket could not be used to facilitate a junction between two co-linear sections of the wall rod profile, in a manner that would continue the slot or guiding profile across the junction. The DE reference does not disclose or suggest a bracket with an unobstructed slot remaining open through the bracket. Applicant's bracket structure differs from that of the DE reference as to aspects that are particularly and distinctly claimed. Applicant achieves a function that the DE reference does not disclose and cannot possibly achieve, namely using an unobstructing end fitting that enables both a junction between rod sections and a termination at a rod end, preferably using the same bracket structure but in any case using an unobstructive bracket structure. There is no basis to conclude that applicant's invention was known or would have been obvious.

Applicant's independent claim 1 is allowable for all the foregoing reasons. Applicant's dependent claims further define and distinguish the invention from the prior art. Claim 3 defines the bracket as being inserted into the wall mounting rod, and claim 7 specifies a form fit or interference fit. In claim 12, the bracket engages

in the hollow profile. Thus the bracket plugs into the rod while continuing the guiding profile unobstructed. These aspects likewise differ from the DE reference and render the dependent claims allowable for additional reasons.

There is no incentive apparent from the prior art of record, and no reason apart from applicant's disclosure to know that anything useful can be gained by altering a mounting bracket as in the prior art so as to more nearly approach applicant's invention. The prior art wall of brackets as in DE 81 30 860 contains mounting brackets that terminate the ends of a sliding-profile wall rod, i.e., that close the ends of the sliding slot. Applicant has departed from that idea by providing a mounting bracket that does not obstruct the guiding slot. Applicant's wall rod sliding profile can be closed at its ends if desired, e.g., with an end cap 3 or 4 that fits over a bracket or a length of wall rod. Applicant's bracket 2 does not obstruct the guiding profile. This aspect enables a bracket and preferably the identical same structure of bracket, to affix the extreme ends of a wall rod or to fix and/or join together intermediate segments at a junction, as shown at the junction between rod segments 1a and 1b in Fig. 1. This aspect is not found in a similar wall rod mounting in the prior art, or in any structure that is related to the extent to which the person of ordinary skill might objectively recognize its usefulness in the context of applicant's invention. Therefore, the invention is properly patentable.

The claims have been amended to more particularly and distinctly define the subject matter of the invention and to better distinguish over the prior art of record. The invention claimed as a whole is not disclosed in the prior art. The differences between the invention and the prior art are such that the subject matter claimed as a whole is not shown to have been known or obvious.

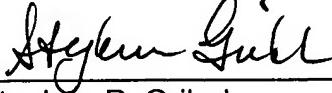
Applicant requests substantive examination as to all the pending claims 1-18, without prejudice resulting from the fact that the preliminary amendment filed concurrently with the application was overlooked. The preliminary amendment was timely and was of record in time to be considered prior to the first official action.

Allowance of claims 1-18 is requested in due course.

Respectfully submitted,

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